



FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-4; OMB No. 7100-0100) and the Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer (Form MSD-5; OMB No. 7100-0101). The Board proposes to revise Form MSD-4 and Form MSD-5 to (1) remove the date of birth and place of birth items from the 'Personal History of Applicant' section on Form MSD-4 and instructions; (2) make minor revisions to the Privacy Act statements on Form MSD-4 and Form MSD-5; and (3) remove the Privacy Act notice from the respective instructions for Form MSD-4 and Form MSD-5 (but leave the Privacy Act notice on the forms). The proposed revisions would be effective June 1, 2019.

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by *MSD-4* or *MSD-5*, by any of the following methods:

- Agency Website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: regs.comments@federalreserve.gov. Include OMB number in the subject line of the

message.

- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System,
20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available on the Board's website at

<http://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the OMB Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503, or by fax to (202) 395-6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, if approved. These documents will also be made available on the Board's public website at <http://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC, 20551.

SUPPLEMENTARY INFORMATION: On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

Request for comment on information collection proposals

The Board invites public comment on the following information collections, which are being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

Proposal under OMB delegated authority to extend for three years, with revision, the following information collections:

Report title: The Uniform Application for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer.

Agency form number: Form MSD-4.

OMB control number: 7100-0100.

Frequency: On occasion; a municipal securities dealer (MSD) that is regulated by the Board is required to file Form MSD-4 within ten days of a municipal securities principal's or representative's association with that MSD.

Respondents: MSDs regulated by the Board that are, or are the subsidiary of, a state member bank (SMB), a bank holding company (BHC), a savings and loan holding company (SLHC) or a foreign dealer bank.

Estimated number of respondents: 18.

Estimated average hours per response: 1.

Estimated annual burden hours: 18.

General description of report: The Municipal Securities Rulemaking Board (MSRB) rule G-7, Information Concerning Associated Persons, requires persons who are or seek to be associated with an MSD as a municipal securities principal (a person performing supervisory functions) or representative (a person engaged in underwriting, trading, or sales of municipal securities or

furnishing financial advice to issuers in connection with the issuance of municipal securities) to provide certain background information to the MSD. The rule also requires MSDs to obtain and report this information to the appropriate regulatory agency (ARA). Board-regulated MSDs must report to the Board information required by MSRB rule G-7 using Form MSD-4.

Generally, the information required by Form MSD-4 relates to employment history and professional background, including any disciplinary sanctions, as well as any claimed basis for exemption from MSRB examination requirements.

MSDs must retain copies of Form MSD-4 for each associated principal or representative during the entire term of employment and three years from the date of termination of employment. Completed reporting forms are sent as a Portable Document Format (PDF) directly to the Board via email.

Report title: The Uniform Termination Notice for Municipal Securities Principal or Municipal Securities Representative Associated with a Bank Municipal Securities Dealer.

Agency form number: Form MSD-5.

OMB control number: 7100-0101.

Frequency: On occasion; an MSD that is regulated by the Board is required to file Form MSD-5 within 30 calendar days after a principal or representative terminates association with that MSD.

Respondents: MSDs regulated by the Board that are, or are the subsidiary of, a state member bank (SMB), a bank holding company (BHC), a savings and loan holding company (SLHC) or a foreign dealer bank.

Estimated number of respondents: 19.

Estimated average hours per response: 0.25.

Estimated annual burden hours: 5.

General description of report: Form MSD-5 is filed by a Board-regulated MSD when any employee previously registered as a municipal securities principal or representative is terminated for any reason. Form MSD-5 requires information such as the reason for termination and whether any investigations or actions by agencies or self-regulatory organizations (SROs) involving the associated person occurred during the period of employment.

Any SMB, BHC, SLHC, or foreign dealer bank registered as a MSD will continue to be required to file this event-generated report form for any employees that are terminated. MSDs must retain copies of the Form MSD-5 reports for three years from the date of termination of employment. Completed reporting forms are sent as a PDF directly to the Board via email.

Proposed revisions: The Board proposes to revise Form MSD-4 and Form MSD-5 to (1) remove the date of birth and place of birth items from the ‘Personal History of Applicant’ section on Form MSD-4 and instructions; (2) make minor revisions to the Privacy Act statements on Form MSD-4 and Form MSD-5; and (3) remove the Privacy Act notice from the respective instructions for Form MSD-4 and Form MSD-5 (but leave the Privacy Act notice on the forms). The proposed revisions would be effective June 1, 2019.

The date of birth and place of birth data fields on Form MSD-4 report are considered personally identifiable information (PII), and the Board generally does not need these fields in order to perform its supervisory responsibilities regarding applications to become municipal securities principals or representatives but could obtain this information on a case-by-case basis when needed. The Board is making an effort to remove PII from its supervisory reports if that PII is not critical to fulfilling its supervisory responsibilities.

The Board also proposes to update the Privacy Act notices that appear on Form MSD-4 and Form MSD-5, respectively. The Privacy Act governs the collection, maintenance, use, and

dissemination of information about individuals that is maintained in systems of records by federal agencies. A system of records is a group of records under the control of the agency from which information about individuals is retrieved by name of the individual or some identifier assigned to the individual. Under the Privacy Act, an agency that maintains a system of records must provide notice to individuals, at the point of collection of information maintained in the system of records, of: (1) the authority which authorizes the collection and whether the collection is mandatory or voluntary; (2) the purpose of the collection; (3) the routine uses which may be made of the information; and (4) the effects of not disclosing the information.

The proposed revisions to the Privacy Act notice would include an updated website URL for the relevant system of records. The revisions to the notice also would reflect that Form MSD-4 and Form MSD-5 are interagency and would add the applicable Privacy Act notices from the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC). Finally, the Board would remove the Privacy Act notice from the instructions to Form MSD-4 and Form MSD-5, respectively, as a Privacy Act notice on the form collecting the information is sufficient and the Privacy Act notice on the instructions is duplicative.

Legal authorization and confidentiality: Sections 15B(a)-(b) and 17 of the Securities Exchange Act (the Act) authorize the SEC and MSRB to promulgate rules requiring MSDs to file reports about associated persons with the SEC and the ARA (15 U.S.C. 78o-4(a)-(b) and (q)). In addition, section 15B(c) of the Act provides that ARAs may enforce compliance with the SEC's and MSRB's rules (15 U.S.C. 78o-4(c)). Section 23(a) of the Act also authorizes the SEC, the Board, and the other ARAs to make rules and regulations in order to implement the provisions of the Act (15 U.S.C. 78w(a)). Under the Act, the Board is the ARA for a MSD that is, or is the

subsidiary of, a SLHC, SMB (including its divisions or departments), or BHC (including a subsidiary bank of the bank holding company, if the subsidiary does not already report to another ARA or to the SEC, and any divisions, departments or subsidiaries of that subsidiary) (15 U.S.C. 78c(a)(34)(A)(ii)). Although the Act does not specify the ARA for MSD activities of foreign banks, uninsured state branches or state agencies of foreign banks, commercial lending companies owned or controlled by a foreign bank, or Edge Act corporations (collectively referred to as “foreign dealer banks”), the Division of Market Regulation of the SEC has agreed that the Federal Reserve should examine the MSD activities of foreign dealer banks.¹ Accordingly, the Board’s collection of Form MSD-4 and Form MSD-5 for these institutions is authorized pursuant to the Act.²

In addition, the Board is authorized to require that SMBs and their departments file reports with the Board pursuant to section 11(a)(1) of the Federal Reserve Act (12 U.S.C. 248(a)(1)). Branches and agencies of foreign banks are subject to the reporting requirements of section 11(a)(1) of the Federal Reserve Act pursuant to Section 7(c)(2) of the International Banking Act (12 U.S.C. 3105(c)(2)). BHCs and their subsidiaries are required to submit reports to the Board to ensure compliance with “federal laws that the Board has specific jurisdiction to enforce” (12 U.S.C. 1844(c)(1)(ii)(II)). Section 10(b)(2) of the Home Owners Loan Act authorizes the Board to require SLHCs to file “such reports as may be required by the Board” and instructs that such reports “shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Board may require” (12 U.S.C. 1467a(b)(2)).

¹ See Letter from Catherine McGuire, Chief Counsel, SEC's Division of Market Regulation, to Laura M. Homer, Assistant Director of Board S&R, June 14, 1994.

² 15 U.S.C. 78o-4, 78q, and 78w.

The obligation to file the forms with the Board is mandatory for those financial institutions for which the Board serves as the ARA, and the filing of both forms is event generated.

Generally, information provided on Form MSD-4 and Form MSD-5 will be kept confidential from the public under exemption 6 of the Freedom of Information Act (“FOIA”), which protects information in “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. 552(b)(6)). In addition, other information on Form MSD-4 and Form MSD-5, such as the name of the MSD that filed the form, may be withheld under exemption 4 of the FOIA, if disclosure is reasonably likely to result in substantial competitive harm to the MSD (e.g., if a MSD recently hired or terminated a number of municipal securities employees, disclosing these forms could reveal competitively sensitive commercial information about that dealer) (5 U.S.C. 552(b)(4)).

The information collected on Form MSD-4 and Form MSD-5 is maintained in a “system of records” within the meaning of the Privacy Act (5 U.S.C. 552a(a)(5)). As required under the Privacy Act, the Board formally designated a system of records notice (“SORN”) for this information collection, which is the “BGFRS-17, FRB—Municipal or Government Securities Principals and Representatives,” located here: <https://www.federalreserve.gov/files/BGFRS-17-municipal-or-government-securities-principals-and-representatives.pdf>. Pursuant to the Privacy Act, disclosure of information that must be released under the FOIA does not violate the Privacy Act (5 U.S.C. 552a(b)(2)). However, disclosure of any confidential information that is considered exempt under the FOIA must be made in accordance with the Privacy Act (5 U.S.C. 552a(b)). Thus, the Board may make disclosures of information collected on Form MSD-4 and Form MSD-5 in accordance with the Privacy Act’s “routine use” disclosure provision, which

permits the disclosure of a record for a purpose that is compatible with the purpose for which the record was collected (5 U.S.C. 552a(a)(7) and (b)(3)). The routine uses that apply to this information collection are listed in the SORN, which is available on the Board's website at the above hyperlink. Both Form MSD-4 and Form MSD-5 are being revised to include updated Privacy Act notices.

Consultation outside the agency: The Board has coordinated and consulted with the FDIC, OCC, and SEC in proposing these revisions.

Board of Governors of the Federal Reserve System, February 27, 2019.

Michele Taylor Fennell,

Assistant Secretary of the Board.

Billing Code 6210-01-P

[FR Doc. 2019-03874 Filed: 3/4/2019 8:45 am; Publication Date: 3/5/2019]